

**DRAFT MINUTES**  
**Massachusetts Oil Spill Prevention and Response Act Advisory Committee**  
**Wednesday, October 23, 2013**  
**Buzzards Bay Coalition, 114 Front Street, New Bedford, MA**

**Attendees**

Ben Ericson, MassDEP  
Rich Packard, MassDEP  
Patrick Hurley, MassDEP  
Steve Mahoney, MassDEP  
Tim Cahill, MassDEP  
Christine Ayers, MassDEP  
Ed Leblanc, USCG  
Mark Rasmussen, Coalition for Buzzards Bay  
David Janik, MA EEA / CZM  
Steve Dodge, Mass Petroleum Council  
Ed Anthes-Washburn, New Bedford HDC  
Greg Gifford, Steamship Authority  
John Silva, Moran Env. Recovery  
Clint Walker, Northeast Pilots  
Vincent Kirby, Northeast Pilots  
John Murner, USACE Cape Cod Canal  
Elise DeCola, Nuka Research

Michelle Prior, Nuka Research  
Mike Popovich, Nuka Research  
Dave Darmofal, Fairhaven Police  
Rodney Avila, New Bedford HDC  
Michael Gomes, New Bedford Fire Dept.  
Kirk Franklin, Oil Spill Response Group  
Phil Mikan, USCG Long Island Sound  
Jason Gomes, New Bedford Port Security  
Mark Raposo, New Bedford Port Security  
Joe Costa, MCZM  
George Sampson, USCG  
Christopher Gill, Gulf Oil  
Gary Oliveira, McAllister Towing  
Matt Durand, Cumberland Gulf  
Jeff Stieb, New Bedford HDC  
Gary Hedman, Horsley Witten Group  
\*additional attendees did not sign in

**Welcome / Introductions**

Mark Rasmussen of the Buzzards Bay Coalition welcomed the group and provided a brief summary of the Coalition's purchase and restoration of the 114 Front Street building, and described some of the alternative building technologies implemented during the restoration process. Ben Ericson, Assistant Commissioner, Massachusetts Department of Environmental Protection (MassDEP), then welcomed the group and reviewed some recent highlights for the program, including the completion of Geographic Response Plans (GRP), delivery of spill response trailers, and collaboration between parties involved in the Buzzards Bay rule making process. Ben introduced the Massachusetts Oil Spill Response Prevention Act Advisory Committee (MOSPRAAC) to the meeting attendees, and extended thanks to departing Program Manager Rich Packard, highlighting the achievements and milestones of the program. Ben also recognized the efforts of and MassDEP staff Patrick Hurley and Steve Mahoney in supporting the program, and briefly discussed transition planning.

**USCG/MassDEP Buzzards Bay Risk Assessment Study Results**

Mr. Ericson then introduced Rich Packard, MOSPRA Program Manager, who welcomed attendees and provided a general summary of the planned meeting agenda. Mr. Packard then discussed the pending final report for the Buzzards Bay Risk Assessment (BBRA), completed by the MITRE Corp. under the Homeland Security Systems Engineering and Development Institute

(SEDI). The SEDI/MITRE BBRA report was completed in January 2013, and evaluated the potential for a navigational incident resulting in an oil spill after January 2015, when single hull tank barges are phased out. The study looked at different categories of accidents (e.g., collision, allusion, and grounding) and how the use of a pilot or escort tugs might affect or change the outcome of these incidents. The study concluded that the risk of a spill in Buzzards Bay (once every nine years) is greater than the national average (once every 13 years), and estimated that the cost of an oil spill in Buzzards Bay would be \$75 million.

An attendee questioned whether improvements to navigational aids were considered as part of the risk assessment (they were not included in the commissioned study).

Mr. Packard explained that MassDEP had contracted with the National Academy of Sciences (NAS) Transportation Review Board (TRB) to conduct a peer review of the BBRA. He summarized the August 30<sup>th</sup>, 2013 Peer Review Committee meeting held with the National Academy of Sciences (NAS) Transportation Review Board (TRB) in Woods Hole, during which MITRE representatives presented the methodologies used to support the conclusions of the Buzzards Bay Risk Assessment. The meeting was also attended by MassDEP, USCG, and representatives from Nuka Research and Planning, LLC.

Steve Dodge, of the Mass Petroleum Council inquired as to whether MassDEP and USCG could “agree to disagree” in finding resolution and common ground during the final rule making process.

### **USCG Advanced Notice of Proposed Rulemaking – Buzzards Bay**

Ed Leblanc, Chief of the Waterways Division, United States Coast Guard, described the federal rule making process and the Advanced Notice of Proposed Rulemaking for Buzzards Bay published July 8, 2013. Mr. Leblanc explained that the Waterways Division was primarily responsible for the review of any proposed facility or activity that would potentially impact navigation on a Federal waterway, and went on to discuss refinements to the current Regulated navigation Area for Buzzards Bay proposed by the ANPRM. The ANPRM asks for comment on a proposal to place a federally licensed pilot on the bridge of the towing vessel for laden double-hull tank barges, to change the current Buzzards Bay Vessel Movement Recording System (VMRS), to only cover tank barges carrying greater than 5000 barrels of oil or hazardous materials and establish a “condition based” escort requirement for laden double-hull tank barges transiting Buzzards bay and the Cape Cod Canal. Mr. Leblanc discussed the Buzzards Bay Risk Assessment, which concluded that Federal pilots may provide more protection than tug escorts for double-hull barges, and briefly talked about the August 2013 conditional escort tug work group meeting hosted by the USCG and MassDEP. The working group consensus was that all oil-laden barges should have full time tug escorts. A summary of the groups meeting has been included in the Federal docket, and posted on the MASSDEP web page. Mr. LeBlanc stated that the group may meet again to discuss other potential navigation safety measures.

Attendee raised the following questions:

- Whether all hazardous materials would be subject to the proposed federal requirements, or just oil. Mr. LeBlanc stated that all hazardous materials will be subject to the requirement.
- Whether escort requirements would take into account the specifications and capability of the tug and crew as there are a great variety of capabilities across the tug fleet. Mr. LeBlanc stated that information regarding this provided by commenter's will be considered.
- Who signs off on the final rule making? Mr. LeBlanc stated that a flag officer (admiral) at USCG District 1 will sign off on the final rule but USCG Headquarters in Washington will also have decision making input.

### **Proposal for New Bedford Harbor Bilge Water Collection Facility and Oil Spill Prevention Program**

Jeff Stieb and Ed Anthes-Washburn of the New Bedford Harbor Development Commission (NBHDC) presented a funding request/proposal designed to address the issue of chronic oil spills in New Bedford Harbor. The number of "mystery spills" in New Bedford Harbor averages approximately 30 per year. In August 2013 a spill of more than 200 gallons of diesel brought heightened attention and concern from MassDEP, the USCG, the NBHDC and the media. The NBHDC proposal has several components, including education and outreach, increased monitoring and enforcement by Fairhaven and New Bedford police and fire departments and collection and disposal of bilge water from fishing vessels.

The NBHDC provided a detailed cost summary estimate for a three-year comprehensive start-up grant. The budget summary included law enforcement patrol reimbursement; additional surveillance cameras, education and outreach, and acquisition of the bilge water recover system, totaling \$793,607. The capital needed for the purchase of a vehicle and trailer for the bilge water recovery system was revised after the meeting to \$65,000, bringing the revised total to \$758,607.

Attendees questions/comments included:

- A Fairhaven representative voiced strong support for the proposal across Fairhaven department boards
- Several more comments in support of the proposal were voiced
- Greg Gifford raised the question regarding the use of public funding for personnel
- Questions were also raised on the issue of hazardous materials management and potential liability issues for the bilge water

### **Ongoing Program Implementation Activities**

Mr. Packard and Elise DeCola, Nuka Research, reviewed the status of the ongoing MOSPRA program activities:

#### **Equipment Procurement**

Mr. Packard reported that MassDEP has completed its distribution of 82 spill equipment trailers to 70 coastal communities. MassDEP is continuing its commitment to provide annual

maintenance and restocking of trailers, as well as training of local and state oil spill first responders on how to use the equipment.

### *Geographic Response Plans*

Mr. Packard and Ms. DeCola of Nuka Research reported on the development of GRPs for all Massachusetts coastal areas, and briefed attendees on the core elements of the GRP, mutual aid scenarios, and deployment procedures. Using a collaborative workgroup approach, protection strategies were developed for coastal sites based on environmental sensitivity criteria, vulnerability, and the feasibility of protecting the identified resources.

Ms. DeCola also discussed ongoing GRP exercises and training in 51 of 70 coastal communities since 2009, and some of the valuable lessons learned during these training exercises, especially considerations for boom deployment at certain locations. Ms. DeCola also discussed Homeland Security Exercise Evaluation Program (HSEEP) grant funding has been secured to support attendance by local emergency response personnel at GRP field exercises and that continued support of HSEEP funding will be important to maintaining an enhanced oil spill response capability. Ms. DeCola also extended thanks to Rich Packard for his involvement and work with the Program.

### **OSA Program Plan & Trust Fund Status**

Mr. Packard updated the attendees on the status of the MOSPRA Trust Fund. Currently the fund collects \$.05 per barrel (42 gallons) of oil delivered to a marine terminal in Massachusetts. MassDEP's commissioner is authorized to use the Trust Fund to pay for the various used as described in Chapter 21M, including the MOSPRA programs and activities. Mr. Packard described how currently industry is paying to have escort tugboats accompany tank barges carrying oil through Buzzards Bay but depending on pending litigation this provision by be blocked by court order. If it is then under Massachusetts law MassDEP will be required to use the MOSPRA Trust Fund to pay for state pilots and escort tugs for single and double hulled tank barges carrying oil through Buzzards Bay. From 2009 – 2010 MassDEP was required to fund state pilots and escort tugs at a cost of almost \$4.0 million. Prudent management of the MOSPRA trust fund requires MassDEP to maintain a reserve capacity to fund this contingency. Other expenditures of the Trust Fund include development of GRP sites, maintenance of response trailers, and administrative costs.

MassDEP expects program expenditures to continue, including maintenance of the spill equipment trailers; development of remaining GRPs; oil spill response field trainings; administrative activities related to annual updates to the plan and budget; and other projects.

In addition a reserve amount should be set aside to fulfill the Chapter 21M requirement that the fund be available to pay for damage claims resulting from oil spills that are not covered by the NPFC or the responsible party.

Mr. Ericson discussed the need to establish a process for evaluating requests for funding from the MOSPRA Trust Fund and suggested that this is an area for the Committee to provide input to

MassDEP. The Committee expressed interest in moving the discussion forward to determine programmatic concerns and identify any policy questions.

### **Adjournment**

Mr. Ericson and Mr. Packard thanked everyone for their participation and adjourned the meeting. Mr. Ericson discussed the idea of having the Advisory Committee meet again in the near future to discuss the NBHDC proposal and funding request.